

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CLOUDING IP, LLC,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 13-1338 (LPS)
)	
CA, INC. d/b/a CA TECHNOLOGIES,)	JURY TRIAL DEMANDED
)	
Defendant.)	

**CA INC.'S REPLY BRIEF IN SUPPPORT OF ITS MOTION TO
BIFURCATE DAMAGES FROM LIABILITY AND TO
STAY DAMAGES-RELATED FACT AND EXPERT DISCOVERY**

In support of its Motion to Bifurcate Damages From Liability and to Stay Damages-Related Fact and Expert Discovery (the “Motion”), Defendant CA, Inc. (“CA”) incorporated by reference the opening briefs filed by defendants in several related *Clouding* cases in support of their motions to bifurcate damages from liability and to stay damages-related fact and expert discovery. (D.I. 22). Plaintiff Clouding IP LLC’s (“Clouding”) opposition to CA’s Motion incorporated by reference the opposition briefs it previously filed in those related *Clouding* cases. (D.I. 27).¹

CA has reviewed the arguments set forth in the reply briefs in support of the motions to bifurcate damages from liability and to stay damages-related discovery filed in *Clouding IP LLC v. Google, Inc.* (C.A. 12-639-LPS), *Clouding IP LLC v. Amazon.com, Inc., et al.* (C.A. 12-641-LPS), *Clouding IP, LLC v. Rackspace Hosting, Inc., et al.* (C.A. 12-675-LPS) and *Clouding IP LLC v. Motorola Mobility LLC* (C.A. 12-1078-LPS). See D.I. 130 in C.A. 12-639-LPS; D.I. 141

¹ In support of its Motion, CA also argued that, for the sake of efficiency, the Court should treat all of the Clouding cases the same with respect to the similar bifurcation and stay motions, and further explained that the disparate CA products accused of infringement would create complications for damages discovery. (D.I. 22 at 2). Clouding did not respond substantively to these arguments, but merely stated that these additional facts “do not change the calculus” for denying CA’s Motion. (D.I. 27 at 1).

in C.A. 12-641-LPS; D.I. 146 in C.A. 12-675-LPS; D.I. 103 in C.A. 12-1078-LPS. In addition, CA understands that other defendants in the related *Clouding* cases are concurrently filing reply briefs in support of similar motions to bifurcate liability from damages and to stay fact and expert damages-related discovery.² Because the same arguments are equally applicable to CA's Motion, CA will not burden the Court with a duplicative reply brief, but instead relies upon and incorporates herein the arguments in all of the aforementioned reply briefs in support of CA's Motion.

In addition, on January 3, 2014, Clouding newly accused another CA product – “CA Data Center” – of infringing one of the patents-in-suit. Although CA's investigation is ongoing, it currently believes that this change will further complicate damages discovery efforts.

WHEREFORE, CA respectfully requests that the Court bifurcate the issue of damages from the issue of liability and stay damages-related fact and expert discovery until resolution of the liability issues.

² These additional cases are: Clouding IP LLC v. EMC Corp., et al.. (C.A. 13-1455-LPS), Clouding IP, LLC v. Dropbox, Inc. (C.A. 13-1454-LPS), Clouding IP LLC v. SAP AG, et al. (C.A. 13-1456-LPS), Clouding IP LLC v. Verizon Online LLC, et al. (C.A. 13-1458-LPS), Clouding IP LLC v. AT&T, Inc. (C.A. 13-1342-LPS), Clouding IP LLC v. Citrix Sys. (C.A. 1301433-LPS), Clouding IP LLC v. Siemens Enterprises (C.A. 13-1457-LPS), and Clouding IP LLC v. Hewlett-Packard Co. (C.A. 13-1341-LPS).

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Paul Saindon

Jack B. Blumenfeld (#1014)
Rodger D. Smith II (#3778)
Paul Saindon (#5110)
1201 North Market Street
P.O. Box 1347
Wilmington, DE 19899
(302) 658-9200
jblumenfeld@mnat.com
rsmith@mnat.com

OF COUNSEL:

Joshua C. Krumholz
Benjamin M. Stern
Jacob W.S. Schneider
HOLLAND & KNIGHT
10 St. James Avenue
11th Floor
Boston, MA 02116
(617) 523-2700

Attorneys for Defendant

January 15, 2014
7917575

CERTIFICATE OF SERVICE

I hereby certify that on January 15, 2014, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on January 15, 2014, upon the following in the manner indicated:

Richard D. Kirk, Esquire
Stephen B. Brauerman, Esquire
Vanessa R. Tiradentes, Esquire
BAYARD, P.A.
222 Delaware Avenue, Suite 900
P.O. Box 25130
Wilmington, DE 19899
Attorneys for Plaintiff

VIA ELECTRONIC MAIL

Marc A. Fenster, Esquire
Brian Ledahl, Esquire
Dorian S. Berger, Esquire
RUSS, AUGUST & KABAT
12424 Wilshire Boulevard, 12th Floor
Los Angeles, CA 90025
Attorneys for Plaintiff

VIA ELECTRONIC MAIL

/s/ Paul Saindon

Paul Saindon (#5110)